

2019 Regular Session

HOUSE BILL NO. 508

BY REPRESENTATIVE LEOPOLD

1 AN ACT

2 To amend and reenact R.S. 26:2(7) through (26) and 241(5) through (19) and to enact R.S.  
3 26:2(27) through (30), 153, 241(20) through (24), and 307, relative to the delivery  
4 of alcohol; to provide for definitions; to provide relative to high content alcoholic  
5 beverages; to provide relative to low alcoholic content beverages; to provide for the  
6 delivery of high and low alcohol content beverages; to provide for alcohol delivery  
7 regulations; to provide alcohol beverage delivery restrictions; and to provide for  
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 26:2(7) through (26) and 241(5) through (19) are hereby amended  
11 and reenacted and R.S. 26:2(27) through (30), 153, 241(20) through (24), and 307 are hereby  
12 enacted to read as follows:

13 §2. Definitions

14 For purposes of this Chapter, the following terms have the respective  
15 meanings ascribed to them in this Section, unless a different meaning clearly appears  
16 from the context:

17 \* \* \*

18 (7) For purposes of R.S. 26:153, "delivery" means a delivery of an alcoholic  
19 beverage in a container sealed by the manufacturer of the alcoholic beverage by a  
20 liquor retailer permitted pursuant to R.S. 26:71(A)(3)(b) or by a retailer permitted  
21 to sell alcoholic beverages for off-premise consumption and their employees.  
22 Delivery shall be permitted only in those areas where the sale of alcoholic beverages

1           are permitted. Delivery by a retailer shall not extend past the boundaries of the  
2           parish where the retailer's permitted establishment is located. Prior to delivering  
3           alcoholic beverages, a retailer shall give notice to and receive permission from the  
4           office of alcohol and tobacco control subject to rules promulgated by the  
5           commissioner as authorized by this Section.

6           (8) "Dinner theater" means an establishment that is a "restaurant  
7           establishment", as defined by R.S. 26:73(C)(1), where food orders are taken and food  
8           service is provided in both a restaurant dining area and where patrons are seated to  
9           view live theatrical productions or the showing of film, still pictures, electronic or  
10          digital reproductions, or other visual reproductions.

11          (9) "Electronic means" means internet-enabled technology and digital media,  
12          including but not limited to websites and consumer applications accessible through  
13          smart phones and other mobile devices.

14          (10) For purposes of R.S. 26:153, "employee" means a W-2 employee of a  
15          liquor retailer permitted pursuant to R.S. 26:71(A)(3)(b) or a W-2 employee of a  
16          retailer permitted to sell alcoholic beverages for off-premise consumption. It shall  
17          not include 1099 contractors or independent contractors hired by a liquor retailer.

18          ~~(8)~~(11) "Liquor" means all distilled or rectified alcoholic spirits, brandy,  
19          whiskey, rum, gin, and all similar distilled alcoholic beverages, including all  
20          dilutions and mixtures of one or more of the foregoing, such as liquors, cordials, and  
21          similar compounds.

22          ~~(9)~~(12) "Liquor retail distribution center" means any commercial airline that  
23          stores alcoholic beverages in sealed containers of any size at any airport regularly  
24          served by the permittee. Such possession for retail sale or distribution therefrom  
25          shall be limited to alcohol of high volume content in any quantity.

26          ~~(10)~~(13) "Liquor retailer" means any dealer, other than a manufacturer or  
27          wholesaler, who sells, offers for sale, exposes for sale, or has in his possession for  
28          sale or distribution any alcoholic beverages in any quantity.

29          ~~(12)~~(14) "Liquor wholesaler" means any dealer who sells any alcoholic  
30          beverage to other licensed liquor wholesale dealers or to licensed retail liquor dealers

1 in the state or who sells alcoholic beverages for delivery beyond the borders of the  
 2 state in amounts to be fixed by the commissioner, or who imports any alcoholic  
 3 beverages into the state, and who meets the standards set forth in this Chapter.

4 ~~(12)~~(15) "Manufacturer" means any person, other than a wine producer, who  
 5 personally or through any agent whatever engages in the making, blending,  
 6 rectifying, or processing of any alcoholic beverage in Louisiana; engages in the  
 7 making, blending, rectifying, or processing any alcoholic beverage outside Louisiana  
 8 for sale in Louisiana; or engages in the business of supplying alcoholic beverages to  
 9 licensed wholesale dealers in Louisiana. A manufacturer who engages in the  
 10 making, blending, rectifying, or processing of any alcoholic beverage in a facility  
 11 entirely located in the state of Louisiana may sell or serve only those products that  
 12 are made, blended, rectified, or processed at that facility to the public only at that  
 13 facility for consumption on or off the premises but not for resale. The total amount  
 14 of such sales to the public for any given month shall not exceed one case per person  
 15 for each thirty-day period. Any manufacturer who sells its products to the public  
 16 pursuant to this Paragraph shall remit all state and parish or municipal sales and  
 17 excise taxes to the proper tax collecting authority for all products sold to the public.  
 18 A manufacturer who sells or serves its products to the public pursuant to this  
 19 Paragraph, shall comply with all local zoning laws and regulations.

20 ~~(13)~~(16) "Microdistiller" means any person who operates a microdistillery.

21 ~~(14)~~(17) "Microdistillery" means a retail outlet where a microdistiller  
 22 engages in the distilling, making, blending, rectifying, or processing of any alcoholic  
 23 beverage in Louisiana in quantities of not more than twelve thousand gallons per  
 24 year for retail sale for consumption on or off the licensed premises in accordance  
 25 with the provisions of this Chapter and regulations, if any, promulgated by the  
 26 commissioner.

27 ~~(15)~~(18) "Outlet" means a place where any person draws or removes any  
 28 alcoholic beverage from its container for consumption on the premises.

29 ~~(16)~~(19) "Package house-Class B" means a place consisting of no less than  
 30 five hundred square feet of public habitable area which sells alcoholic beverages in

1 factory sealed containers for transportation and consumption off the premises and  
 2 where no person is allowed to tamper with or otherwise disrupt the manufacturer's  
 3 seal on or about the licensed premises.

4 ~~(17)~~(20) "Regulated beverage" means any alcoholic beverage.

5 ~~(18)~~(21) "Solicitor" means any person who offers for sale or solicits any  
 6 orders for the sale of any regulated beverage, other than in a regularly established  
 7 and licensed place of business in this state, for delivery or shipment to any point in  
 8 the state, whether done as owner, agent, or servant.

9 ~~(19)~~(22) "Sparkling wine" means any effervescent alcoholic beverage  
 10 derived from the juice of any fruit, or synthesis thereof, charged with carbon dioxide,  
 11 either artificially or as the result of secondary fermentation within the container.

12 ~~(20)~~(23) "Still wine" means any non-effervescent alcoholic beverage derived  
 13 from the juice of any fruit, or synthesis thereof.

14 ~~(21)~~(24) "Supplier" means any person, other than a wine producer, who  
 15 manufactures, makes, blends, rectifies, distills, processes, or purchases alcoholic  
 16 beverages outside the state of Louisiana and imports, sells, offers for sale, solicits  
 17 orders for sale, distributes, or delivers such alcoholic beverages in Louisiana.

18 (25) "Third party" means an independent technology company that operates  
 19 a website or consumer application on which independent liquor retailers market their  
 20 products. Such third-party company shall not deal, handle, sell, offer for sale, or  
 21 possess for sale alcoholic beverages or process payments for the sale of alcoholic  
 22 beverages.

23 ~~(22)~~(26) "Wholesale dealer" means a person who sells alcoholic beverages  
 24 of high alcoholic content to licensed wholesale dealers or licensed retail dealers  
 25 exclusively, within the state or to any person for delivery beyond the borders of the  
 26 state to a licensed dealer in that state and who conducts a bona fide wholesale  
 27 business and maintains a warehouse or warehouses for the storage and warehousing  
 28 of alcoholic beverages of high alcoholic content in the area where domiciled and  
 29 licensed by the state, and conducts and maintains systematic and regular  
 30 solicitations, distribution, deliveries, and sales of the beverages to licensed retail

1 dealers located within the boundary of each parish, municipality, or geographic area,  
2 as contractually defined between the wholesaler and his supplier, in which the  
3 wholesale dealer makes any sale or delivery.

4 ~~(23)~~(27) "Wine package house" means a place where a person sells only  
5 sparkling wine and still wine in the original package or closed container, prepared  
6 for transportation and consumption off the premises.

7 ~~(24)~~(28) "Wine producer" means any person who, directly or indirectly,  
8 personally or through any agency, cultivates and grows grapes, fruits, berries, honey,  
9 or vegetables from which wine of an alcoholic content in excess of six percent by  
10 volume is produced and bottled from a fermentation of such grapes, fruits, berries,  
11 honey, or vegetables in Louisiana or outside the state for shipments to licensed  
12 wholesale dealers within the state subject to the provisions of R.S. 26:364.

13 ~~(25)~~(29) "Winery" means a plot of land located in Louisiana used to cultivate  
14 and grow grapes, fruits, berries, honey, or vegetables for the purpose of fermenting  
15 such grapes, fruits, berries, honey, or vegetables to produce and bottle wine of an  
16 alcoholic content in excess of six percent by volume.

17 ~~(26)~~(30) "Wine wholesaler" means any dealer who sells only sparkling wine  
18 and still wine to other licensed wholesale dealers or to licensed retail dealers for  
19 resale within the state.

20 \* \* \*

21 §153. Delivery of alcoholic beverages; certain retailers; third parties; requirements;  
22 limitations

23 A. Notwithstanding any law to the contrary, any liquor retailer permitted  
24 pursuant to R.S. 26:71(A)(3)(b) or any retailer permitted to sell alcoholic beverages  
25 for off-premise consumption may deliver, either on the licensed premises itself or at  
26 a residential or commercial address designated by the consumer, products lawfully  
27 sold to and purchased by such consumer, provided that:

28 (1) The liquor retailer possesses a Class B permit as defined in R.S. 26:2(19)  
29 or possesses a permit that allows the retailer to sell alcoholic beverages for  
30 off-premise consumption.

1           (2) The liquor retailer or an employee of the liquor retailer processes at the  
2           Class B premises or at the premise permitted to sell alcoholic beverages for  
3           off-premise consumption all payments initiated by a consumer that is transacting the  
4           purchase with the liquor retailer.

5           (3) The Class B liquor retailer or a retailer permitted to sell alcoholic  
6           beverages for off-premise consumption, or an employee of such retailer, assembles,  
7           packages, and fulfills each order at the permitted premises where the order was  
8           processed using inventory located at that premises that was purchased from a  
9           permitted wholesale dealer.

10           (4) Deliveries to consumers are made only by the Class B liquor retailer or  
11           a retailer permitted to sell alcoholic beverages for off-premise consumption, or an  
12           employee of such retailer, and only to consumers at a residential or commercial  
13           address in this state.

14           (5) The alcoholic beverages delivered are for personal consumption, not  
15           intended for resale, and are in a container sealed by the manufacturer of the alcoholic  
16           beverage. The delivery of an "open alcoholic beverage container" as defined in R.S.  
17           32:300 is prohibited.

18           (6) Delivery of alcoholic beverages is permitted only in those areas where  
19           the retail sale of alcoholic beverages is permitted. Delivery shall be prohibited in  
20           any area where it is prohibited by the local governing authority. The delivery radius  
21           of a retailer shall not extend past the boundaries of the parish where the retailer's  
22           permitted establishment is located.

23           (7) Alcoholic beverages are not delivered to an address on a campus of any  
24           state college, university, or technical college or institute, any independent college or  
25           university, or any elementary or secondary school located in this state.

26           (8) Delivery is permitted only during the hours that the authorized retailer's  
27           permitted establishment is open to the public.

28           (9) At the time of delivery, the Class B liquor retailer or a retailer permitted  
29           to sell alcoholic beverages for off-premise consumption, or an employee of such

1           retailer, verifies that the recipient of the alcoholic beverage or beverages is not  
2           visibly intoxicated.

3           (10) At the time of delivery, the Class B liquor retailer or a retailer permitted  
4           to sell alcoholic beverages for off-premise consumption, or an employee of such  
5           retailer, verifies the identity and age of the person accepting delivery of the order by  
6           validating a state-issued photo identification of the person or through use of a  
7           real-time age verification system authorized by the commissioner. Additionally, a  
8           signature of the person receiving the delivery acknowledging receipt of the delivery  
9           and verifying their age shall be obtained.

10           (11) The retail dealer keeps a record of all deliveries of alcoholic beverages  
11           and retains such records for two years from the date of the delivery. The retail dealer  
12           shall make such records available to the commissioner of the office of alcohol and  
13           tobacco control upon request for the purpose of investigating and enforcing the  
14           provisions of this Title. The record of each delivery shall include:

15                   (a) The retail dealer's name, address, and permit number.

16                   (b) The name of the person who placed the order and the date, time, and  
17                   method of the order.

18                   (c) The name of the employee making the delivery and the date, time, and  
19                   address of the delivery.

20                   (d) The type, brand, and quantity of each alcoholic beverage delivered.

21                   (e) The name, date of birth, and signature of the person that received the  
22                   delivery.

23           B. Notwithstanding any law, rule, or regulation to the contrary, any liquor  
24           retailer permitted pursuant to R.S. 26:71(A)(3)(b) or a retailer permitted to sell  
25           alcoholic beverages for off-premise consumption, may use electronic means to do  
26           the following:

27                   (1) Market the alcohol products it is licensed to sell.

28                   (2) Receive and process purchase orders placed by a consumer of legal  
29                   drinking age, which orders may then be delivered to such consumer on the licensed

1 premises itself or at a residential or commercial address in this state designated by  
2 the consumer in accordance with Paragraph (A)(4) of this Section.

3 C. A Class B liquor retailer permitted pursuant to R.S. 26:71(A)(3)(b) or a  
4 retailer permitted to sell alcoholic beverages for off-premise consumption may  
5 market, receive, and process orders for alcohol products under this Section using  
6 electronic means owned, operated, and maintained by a third party, provided that:

7 (1) The permittee maintains ultimate control and responsibility over the sales  
8 transaction and transfer of physical possession of the alcoholic beverages.

9 (2) The permittee retains the sole discretion to determine whether to accept  
10 and complete an order or reject it, and the permittee or an employee of the permittee  
11 reviews and accepts or rejects each order.

12 (3) The permittee retains the independence to determine which alcoholic  
13 beverages are made available through electronic means, which alcoholic beverages  
14 are made available for delivery to the consumer at the licensed premises itself or at  
15 another address designated by the consumer, and the permittee shall independently  
16 set the price of such products.

17 (4) The purchase transaction takes place between the consumer and the  
18 permittee and the permittee appears as the retail dealer.

19 (5) Any credit or debit card information provided by a consumer to the third  
20 party for the purpose of transacting a purchase with a permittee is automatically  
21 directed to the permittee such that the permittee appears as the retail dealer at the  
22 time of purchase and on the receipt.

23 (6) The permittee, or an employee of the permittee, processes, at the  
24 premises that accept the order, all payments initiated by a consumer that is  
25 transacting a purchase with the permittee.

26 (7) The alcoholic beverages are in the possession of the permittee prior to the  
27 permittee's processing of payment of such products.

28 (8) The permittee, or an employee of the permittee, assembles, packages, and  
29 fulfills each order at the premises that accepted the order.



1                   (9) Deliveries to consumers are made by the permittee, or by an employee  
2                   of the permittee.

3                   (10) At the time of delivery, the permittee, or an employee of the permittee,  
4                   verifies the identity and age of the person accepting delivery of the order by  
5                   validating a state-issued photo identification of the person or through use of a  
6                   real-time age verification system authorized by the commissioner. Additionally, a  
7                   signature of the person receiving the delivery acknowledging receipt of the delivery  
8                   and verifying their age shall be obtained.

9                   D. The relationship between the permittee and the third party pursuant to  
10                  Subsection C of this Section shall be one of independent contractors, and neither  
11                  party shall be deemed the employee, agent, or joint venturer of the other party under  
12                  any circumstances or for any purposes.

13                  E. The commissioner may promulgate rules in accordance with the  
14                  Administrative Procedure Act related to the requirements and qualifications for  
15                  delivery.

16                  F. If any provision of this Section, or its application to any person or  
17                  circumstance, is determined by a court to be invalid or unconstitutional, the  
18                  remaining provisions shall be construed in accordance with the intent of the  
19                  legislature to further limit rather than expand commerce in alcoholic beverages and  
20                  to enhance strict regulatory control over taxation, distribution and sale of alcoholic  
21                  beverages through the three-tier regulatory system imposed by the Alcoholic  
22                  Beverage Control Law upon all alcoholic beverages.

23                                   \*       \*       \*

24                   §241. Definitions

25                   The following terms have the respective meanings ascribed to them except  
26                   in those instances where the context indicates a different meaning:

27                                   \*       \*       \*

28                   (5) For purposes of R.S. 26:307, "delivery" means a delivery of an alcoholic  
29                   beverage in a container sealed by the manufacturer of the alcoholic beverage by a  
30                   liquor retailer permitted pursuant to R.S. 26:271(A)(3) or by a retailer permitted to

1 sell alcoholic beverages for off-premise consumption and their employees. Delivery  
 2 shall be permitted only in those areas where the sale of alcoholic beverages is  
 3 permitted. Delivery by a retailer shall not extend past the boundaries of the parish  
 4 where the retailer's permitted establishment is located. Prior to delivering alcoholic  
 5 beverages, a retailer shall give notice to and receive permission from the office of  
 6 alcohol and tobacco control subject to rules promulgated by the commissioner as  
 7 authorized by this Section.

8 (6) "Dinner theater" means an establishment that is a "restaurant  
 9 establishment", as defined by R.S. 26:73(C)(1), where food orders are taken and food  
 10 service is provided in both a restaurant dining area and where patrons are seated to  
 11 view live theatrical productions or the showing of film, still pictures, electronic or  
 12 digital reproductions, or other visual reproductions.

13 (7) "Electronic means" means internet-enabled technology and digital media,  
 14 including but not limited to websites and consumer applications accessible through  
 15 smart phones and other mobile devices.

16 (8) For purposes of R.S. 26:307, "employee" means a W-2 employee of a  
 17 liquor retailer permitted pursuant to R.S. 26:271(A)(3) or a W-2 employee of a  
 18 retailer permitted to sell alcoholic beverages for off-premise consumption. It shall  
 19 not include 1099 contractors or independent contractors hired by a liquor retailer.

20 ~~(6)~~(9) "Handle" means sell, use, distribute, store, consume, or otherwise  
 21 handle.

22 ~~(7)~~(10) "Liquors" means all distilled or rectified alcoholic spirits, brandy,  
 23 whiskey, rum, gin, and all similar distilled alcoholic beverages, including all  
 24 dilutions and mixtures of one or more of the foregoing, such as liquors, cordials, and  
 25 similar compounds.

26 (11) "Liquor retailer" means any dealer, other than a manufacturer or  
 27 wholesaler, who sells, offers for sale, exposes for sale, or has in his possession for  
 28 sale or distribution any alcoholic beverages in any quantity.

29 ~~(8)~~(12) "Liter" means a metric unit of capacity equal to one thousand cubic  
 30 centimeters at four degrees ~~centigrade,~~ celsius, and it is equivalent to 33.814 United

1 States fluid ounces. For the purposes of this Part, a liter is subdivided into one  
 2 thousand equal milliliters.

3 ~~(9)~~(13)(a) "Malt beverages containing not more than six percent alcohol by  
 4 volume" means beverages obtained by alcoholic fermentation of an infusion or by  
 5 a brewing process or concoction of barley or other grain, malt, sugars, and hops in  
 6 water, including among other things, ale, beer, stout, porter, and the like. Malt  
 7 beverages are exclusive of all "liquors" whether they be defined as intoxicating or  
 8 spirituous liquors, or as alcoholic, vinous, or malt liquors, or however otherwise  
 9 defined as liquors, which are produced by distillation.

10 (b) "Malt beverages containing more than six percent alcohol by volume"  
 11 means beverages obtained by alcoholic fermentation of an infusion or by a brewing  
 12 process or concoction of barley or other grain, malt, sugars, and hops in water,  
 13 including among other things, ale, beer, stout, porter, and the like. Malt beverages  
 14 are exclusive of all "liquors" whether they be defined as intoxicating or spirituous  
 15 liquors, or as alcoholic, vinous, or malt liquors, or however otherwise defined as  
 16 liquors, which are produced by distillation.

17 (c) For purposes of R.S. 26:287(A)(9) and (10) and 741 only, malt beverages  
 18 shall mean all beverages, regardless of alcoholic content, as defined in this Paragraph  
 19 and all beverages of low alcoholic content as defined in ~~Paragraphs (16) and (17) of~~  
 20 Subparagraph (1)(a) of this Section.

21 ~~(10)~~(14) "Manufacturer or brewer" means any person who, directly or  
 22 indirectly, personally or through any agency, person, or establishment, engages in  
 23 the making, blending, rectifying, brewing, or other processing of alcoholic beverages  
 24 in Louisiana or outside the state for shipments to licensed wholesale dealers within  
 25 the state subject to the provisions of R.S. 26:364. A manufacturer or brewer who  
 26 operates a brewing facility entirely located in the state of Louisiana may sell or serve  
 27 only those products brewed at that facility to the public only at that facility for  
 28 consumption on or off the premises but not for resale. The total amount of such sales  
 29 to the public for any given month shall not exceed ten percent of the total amount of  
 30 product brewed at that facility monthly or two hundred fifty barrels, whichever is

1 greater. Any manufacturer or brewer who sells its products to the public pursuant  
2 to this Paragraph shall remit all state and parish or municipal sales and excise taxes  
3 to the proper tax collecting authority for all products sold to the public. A  
4 manufacturer or brewer who sells or serves its products to the public pursuant to this  
5 Paragraph, shall comply with all local zoning laws and regulations.

6 ~~(11)~~(15) "Microbrewer" means any person who, directly or indirectly,  
7 personally or through any agency, engages in the making, blending, rectifying, or  
8 other processing of beer or other malt beverages for retail sale in an amount not to  
9 exceed twelve thousand five hundred barrels per year.

10 ~~(12)~~(16) "Microbrewery" means a retail establishment wherein beer and  
11 other malt beverages are brewed in small quantities, not to exceed twelve thousand  
12 five hundred barrels per year, and where such beverages are sold at retail for  
13 consumption on or off the licensed premises.

14 ~~(13)~~(17) "Package house-Class B" means a place consisting of no less than  
15 five hundred square feet of public habitable area which sells alcoholic beverages in  
16 factory sealed containers for transportation and consumption off the premises and  
17 where no person is allowed to tamper with or otherwise disrupt the manufacturer's  
18 seal on or about the licensed premises.

19 ~~(14)~~(18) "Premises", or "premises to be licensed", means the building or that  
20 part of the building as defined in the application for the permit in which beverages  
21 of low alcoholic content are sold, except in cases where such beverages are regularly  
22 sold or served outside the building, the terms shall also include such outside area.

23 ~~(15)~~(19) "Retail dealer" means every person who offers for sale, exposes for  
24 sale, has in his possession for sale or distribution, or sells alcoholic beverages in any  
25 quantity to persons other than licensed wholesale or retail dealers.

26 ~~(16)~~(20) "Secretary" means the secretary of the Department of Revenue, or  
27 his duly authorized agents.

28 ~~(17)~~(21) "Sparkling wine" means champagne and any other effervescent  
29 wine charged with carbon dioxide, whether artificially or as the result of secondary  
30 fermentation of the wine within the container.

1                   ~~(18)~~(22) "Still wine" means any noneffervescent wine, including any  
 2                   fortified wine, vermouth, any artificial imitation wine, any compound sold as "still  
 3                   wine", and any fruit juice.

4                   (23) "Third party" means an independent technology company that operates  
 5                   a website or consumer application on which independent liquor retailers market their  
 6                   products. Such third-party company shall not deal, handle, sell, offer for sale, or  
 7                   possess for sale alcoholic beverages or process payments for the sale of alcoholic  
 8                   beverages.

9                   ~~(19)~~(24)(a) "Wholesale dealer of malt beverages containing not more than  
 10                   six percent alcohol by volume" means those persons who sell malt beverages  
 11                   containing not more than six percent alcohol by volume and alcoholic beverages of  
 12                   low alcoholic content to licensed wholesale dealers or licensed retail dealers  
 13                   exclusively, within the state or to any person for delivery beyond the borders of the  
 14                   state to a licensed dealer in that state and who conduct a bona fide wholesale  
 15                   business and maintain a warehouse or warehouses for the storage and warehousing  
 16                   of malt beverages and alcoholic beverages of low alcoholic content in the area where  
 17                   domiciled and licensed by the state, and conduct and maintain systematic and regular  
 18                   solicitations, distribution, deliveries, and sales of said beverages to licensed retail  
 19                   dealers located within the boundary of each parish, municipality, or geographic area,  
 20                   as contractually defined between the wholesaler and his supplier, in which the  
 21                   wholesale dealer makes any sale or delivery.

22                   (b) "Wholesale dealer of malt beverages containing more than six percent  
 23                   alcohol by volume" means those persons who sell malt beverages containing more  
 24                   than six percent alcohol by volume and alcoholic beverages of low alcoholic content  
 25                   to licensed wholesale dealers or licensed retail dealers exclusively, within the state  
 26                   or to any person for delivery beyond the borders of the state to a licensed dealer in  
 27                   that state and who conduct a bona fide wholesale business and maintain a warehouse  
 28                   or warehouses for the storage and warehousing of malt beverages and alcoholic  
 29                   beverages of low alcoholic content in the area where domiciled and licensed by the  
 30                   state, and conduct and maintain systematic and regular solicitations, distribution,

1 deliveries, and sales of said beverages to licensed retail dealers located within the  
2 boundary of each parish, municipality, or geographic area, as contractually defined  
3 between the wholesaler and his supplier, in which the wholesale dealer makes any  
4 sale or delivery.

5 \* \* \*

6 §307. Delivery of alcoholic beverages; certain retailers, third parties; requirements;  
7 limitations

8 A. Notwithstanding any law to the contrary, any liquor retailer permitted  
9 pursuant to R.S. 26:271(A)(3) or any retailer permitted to sell alcoholic beverages  
10 for off-premise consumption may deliver, either on the licensed premises itself or at  
11 a residential or commercial address designated by the consumer, products lawfully  
12 sold to and purchased by such consumer, provided that:

13 (1) The liquor retailer possesses a Class B permit as defined in R.S.  
14 26:241(17) or possesses a permit that allows the retailer to sell alcoholic beverages  
15 for off-premise consumption.

16 (2) The liquor retailer or an employee of the liquor retailer processes at the  
17 Class B premises or at the premises permitted to sell alcoholic beverages for  
18 off-premise consumption all payments initiated by a consumer that is transacting the  
19 purchase with the liquor retailer.

20 (3) The Class B liquor retailer or any retailer permitted to sell alcoholic  
21 beverages for off-premise consumption, or an employee of the retailer, assembles,  
22 packages, and fulfills each order at the permitted premises where the order was  
23 processed using inventory located at that premises that was purchased from a  
24 permitted wholesale dealer.

25 (4) Deliveries to consumers are made only by the Class B liquor retailer or  
26 a retailer permitted to sell alcoholic beverages for off-premise consumption, or an  
27 employee of such retailer, and only to consumers at a residential or commercial  
28 address in this state.

29 (5) The alcoholic beverages delivered are for personal consumption, not  
30 intended for resale, and are in a container sealed by the manufacturer of the alcoholic

1 beverage. The delivery of an "open alcoholic beverage container" as defined in R.S.  
2 32:300 is prohibited.

3 (6) Delivery of alcoholic beverages is permitted only in those areas where  
4 the retail sale of alcoholic beverages is permitted. Delivery shall be prohibited in  
5 any area where it is prohibited by the local governing authority. The delivery radius  
6 of a retailer shall not extend past the boundaries of the parish where the retailer's  
7 permitted establishment is located.

8 (7) Alcoholic beverages are not delivered to an address on a campus of any  
9 state college, university, or technical college or institute, any independent college or  
10 university, or any elementary or secondary school located in this state.

11 (8) Delivery is permitted only during the hours that the authorized retailer's  
12 permitted establishment is open to the public.

13 (9) At the time of delivery, the Class B liquor retailer or a retailer permitted  
14 to sell alcoholic beverages for off-premise consumption, or an employee of such  
15 retailer, verifies that the recipient of the alcoholic beverage or beverages is not  
16 visibly intoxicated.

17 (10) At the time of delivery, the Class B liquor retailer or a retailer permitted  
18 to sell alcoholic beverages for off-premise consumption, or an employee of such  
19 retailer, verifies the identity and age of the person accepting delivery of the order by  
20 validating a state-issued photo identification of the person or through use of a  
21 real-time age verification system authorized by the commissioner. Additionally, a  
22 signature of the person receiving the delivery acknowledging receipt of the delivery  
23 and verifying their age shall be obtained.

24 (11) The retail dealer keeps a record of all deliveries of alcoholic beverages  
25 and retains such records for two years from the date of the delivery. The retail dealer  
26 shall make such records available to the commissioner of the office of alcohol and  
27 tobacco control upon request for the purpose of investigating and enforcing the  
28 provisions of this Title. The record of each delivery shall include:

29 (a) The retail dealer's name, address, and permit number.

1                   **(b) The name of the person who placed the order and the date, time, and**  
 2                   **method of the order.**

3                   **(c) The name of the employee making the delivery and the date, time, and**  
 4                   **address of the delivery.**

5                   **(d) The type, brand, and quantity of each alcoholic beverage delivered.**

6                   **(e) The name, date of birth, and signature of the person that received the**  
 7                   **delivery.**

8                   **B. Notwithstanding any law, rule, or regulation to the contrary, any liquor**  
 9                   **retailer permitted pursuant to R.S. 26:271(A)(3) or a retailer permitted to sell**  
 10                   **alcoholic beverages for off-premise consumption, that sells alcoholic beverages at**  
 11                   **retail to consumers for consumption off the premises may use electronic means to**  
 12                   **do the following:**

13                   **(1) Market the alcohol products it is licensed to sell.**

14                   **(2) Receive and process purchase orders placed by a consumer of legal**  
 15                   **drinking age, which orders may then be delivered to such consumer on the licensed**  
 16                   **premises itself or at a residential or commercial address in this state designated by**  
 17                   **the consumer in accordance with Paragraph (A)(4) of this Section.**

18                   **C. A Class B liquor retailer permitted pursuant to R.S. 26:271(A)(3) or a**  
 19                   **retailer permitted to sell alcoholic beverages for off-premise consumption may**  
 20                   **market, receive, and process orders for alcohol products under this Section using**  
 21                   **electronic means owned, operated, and maintained by a third party, provided that:**

22                   **(1) The permittee maintains ultimate control and responsibility over the sales**  
 23                   **transaction and transfer of physical possession of the alcoholic beverages.**

24                   **(2) The permittee retains the sole discretion to determine whether to accept**  
 25                   **and complete an order or reject it, and the permittee or an employee of the permittee**  
 26                   **reviews and accepts or rejects each order.**

27                   **(3) The permittee retains the independence to determine which alcoholic**  
 28                   **beverages are made available through electronic means, which alcoholic beverages**  
 29                   **are made available for delivery to the consumer at the licensed premises itself or at**



1            another address designated by the consumer, and the permittee shall independently  
2            set the price of such products.

3            (4) The purchase transaction takes place between the consumer and the  
4            permittee and the permittee appears as the retail dealer.

5            (5) Any credit or debit card information provided by a consumer to the third  
6            party for the purpose of transacting a purchase with a permittee is automatically  
7            directed to the permittee such that the permittee appears as the retail dealer at the  
8            time of purchase and on the receipt.

9            (6) The permittee, or an employee of the permittee, processes, at the  
10           premises that accept the order, all payments initiated by a consumer that is  
11           transacting a purchase with the permittee.

12           (7) The alcoholic beverages are in the possession of the permittee prior to the  
13           permittee's processing of payment of such products.

14           (8) The permittee, or an employee of the permittee, assembles, packages, and  
15           fulfills each order at the premises that accepted the order.

16           (9) Deliveries to consumers are made by the permittee, or by an employee  
17           of the permittee.

18           (10) At the time of delivery, the permittee, or an employee of the permittee,  
19           verifies the identity and age of the person accepting delivery of the order by  
20           validating a state-issued photo identification of the person or through use of a  
21           real-time age verification system authorized by the commissioner. Additionally, a  
22           signature of the person receiving the delivery acknowledging receipt of the delivery  
23           and verifying their age shall be obtained.

24           D. The relationship between the permittee and the third party pursuant to  
25           Subsection C of this Section shall be one of independent contractors, and neither  
26           party shall be deemed the employee, agent, or joint venturer of the other party under  
27           any circumstances or for any purposes.

28           E. The commissioner may promulgate rules in accordance with the  
29           Administrative Procedure Act related to the requirements and qualifications for  
30           delivery.

1           F. If any provision of this Section, or its application to any person or  
2           circumstance, is determined by a court to be invalid or unconstitutional, the  
3           remaining provisions shall be construed in accordance with the intent of the  
4           legislature to further limit rather than expand commerce in alcoholic beverages and  
5           to enhance strict regulatory control over taxation, distribution and sale of alcoholic  
6           beverages through the three-tier regulatory system imposed by the Alcoholic  
7           Beverage Control Law upon all alcoholic beverages.

8           Section 2. This Act shall become effective upon signature by the governor or, if not  
9           signed by the governor, upon expiration of the time for bills to become law without signature  
10          by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
11          vetoed by the governor and subsequently approved by the legislature, this Act shall become  
12          effective on the day following such approval.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_